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Chairman Diane Rice
Montana House Judiciary Committee
Montana State Capital
Helena, MT 59620

Dear Members of the House Judiciary Committee,

I will be unable to attend the House Judiciary Committee hearing on SB-306 on Friday, March 9, 2007; but I would like to submit my written testimony from the Senate Judiciary Hearing for your consideration.

Very truly yours,



Gary J. Hilton
President
Paige Plus, LLC

Testimony of
Gary J. Hilton, Sr.

SB 306

An Act Abolishing the Death Penalty and Replacing it with Life
Imprisonment without Possibility of Release

Senate Judiciary Committee Hearing

February 7, 2007

Good afternoon. My name is Gary Hilton, Sr. I retired from the New Jersey Department of Corrections in 1998 after 33 years of service. During my career I held positions of Warden at the New Jersey State Prison at Trenton, the Correctional Institution for Women, and on an interim basis at the Youth Correctional and Reception Center at Yardville and the East Jersey State Prison at Rahway. For a period of approximately 17 years, I served as the Department's Assistant Commissioner for Operations, Deputy Commissioner, Chief of Staff, and at the time of my retirement I had the privilege to serve as Acting Commissioner. After leaving State service I served as Director of Corrections and Youth Services for Monmouth County. Upon my retirement from public service in 2002 I formed a correctional consulting firm, Paige Plus, LLC. I am presently President of Paige Plus, and we have provided comprehensive correctional consulting and expert witness services to a variety of public and private agencies and throughout the United States. Over the

years I have lectured at various colleges and universities, and in 1995 I had the privilege to deliver a major address before a gathering of correctional executives representing former eastern block countries meeting in Budapest, Hungary.

I have a long history and familiarity with New Jersey's death penalty. While serving as Assistant Commissioner I was responsible for overseeing the development of procedures for the Capital Sentence Unit at the New Jersey State Prison at Trenton, as well as developing procedures and protocols for the implementation of the lethal injection penalty. During my tenure at the Department's Central Office I was responsible for overseeing approximately 27,000 sentenced offenders, 40,000 parolees and a staff of approximately 9,000. I believe my direct experience within the New Jersey Department of Corrections makes me well qualified to comment on life without parole as an alternative to the death penalty.

I will attempt to keep my oral presentation well

within the allotted time frame in order to allow for any questions the legislators members may wish to pose. I do, however, wish to make one preliminary comment: I never have been, nor am I today, opposed to the death penalty on the basis of a moral consideration. During an earlier period of my professional life I supported and believed that the death penalty had a proper and appropriate position in our criminal justice system. It has only been with the passing of time, first-hand observation, and careful deliberation that I have come to a clear and firm opinion that the death penalty is poor public policy and ill-advised correctional practice. I believe that any rational individual, given similar professional experience, would draw the same conclusion.

Today there are approximately a thousand or more persons serving some form of life sentence, or the practical equivalent, in the New Jersey State Prison at Trenton, which is the State's most secure maximum security institution.

The New Jersey and I would expect the Montana experience, similar to the national experience in dealing with inmates serving actual or practical forms of natural life sentences, has been that these inmates pose no significant additional challenges nor require any special resources beyond that of any other inmate classified for maximum security level confinement. A substantial body of empirical research supports the claim that persons serving life sentences are less likely than the average inmate to break prison rules, including rules prohibiting violence (see Johnson and Dorbrznska, 2005).

Maximum security prisons must always be viewed as potentially dangerous and violent environments. An unfortunate reality is that very bad things will over the course of time take place in very well-managed maximum security prisons. Confinement in a maximum security prison fundamentally differs from confinement in medium or minimum security facilities in that the maximum security prison's perimeter is always fortified

with deadly force. Inmates know with certainty that if they attempt to escape correction officers are lawfully authorized to "shoot to stop". Correction officers in a maximum security facility live with a similar reality; if they are ever positioned between an inmate bent on escape and a path to freedom, it is both likely and reasonable to assume that the inmate will do whatever is needed to effect the escape.

Within the maximum security environment the majority of inmates accede to the tight security controls, limited movement, long hours of cell confinement, and the uncompromising rules, regulations and repetitive schedule. Generally, they accept the daily routine of imprisonment in order to make what they view as the best of a bad situation. For those inmates who choose to act in a violent or disruptive manner or incite others to do so, the maximum security environment has specially structured living units to effectively control and manage these recalcitrant individuals. Close custody confinement inmates spend

approximately 22.5 hours a day in their cell. These are highly disciplined, controlling environments, as they are meant and need to be.

It is my recommendation, without any reservation, that anyone sentenced to life without parole for murder must serve the full term of their sentence in a secure penal environment. With all due respect, it is my opinion that life without parole means this: the only way an individual leaves prison confinement is in a rubber bag and with a tag on their toe. I suggest Montana legislators adjust their sentencing structure accordingly.

The only way an individual sentenced to life without parole could be released would be upon a judicial reversal of conviction or executive clemency granted by the Governor. Judicial reversals are, of course, a matter for the courts and are beyond the political process. In my experience, the political likelihood of executive clemency is granted by a Governor is remote at best and would only be considered

under the most compelling circumstances.

As difficult and overbearing as life in a maximum security prison is for the younger and middle-aged inmate, I can personally think of nothing more horrific than contemplating and enduring the process of growing old in a maximum security prison. From my own experience I know that inmates facing life without parole or the practical equivalent generally lose meaningful visiting and other contact with family and friends within the first 5 to 10 years of confinement. My personal observations have been that mothers are the most lasting source of visits and correspondence. Anyone who might suggest that life in a maximum security prison is a lark and that inmates pass the time of day in sun-drenched yard areas and immerse themselves in creative art and literary interests is simply misinformed.

By its very nature the maximum security prison environment is a cold, dangerous and frightening place. The reality is that as offender's age and becomes more

infirm they become more likely targets of abuse and intimidation by the younger population. The prison culture has no respect or deference to its senior counterparts. Older inmates are routinely strong-armed for their meager personal assets, i.e. tobacco, hard candy, coffee, et cetera. Older inmates are often required to hoard or courier contraband, i.e. weapons, drugs, fermented spirits, on behalf of younger thugs. Older inmates in fact often voluntarily agree to hoard or courier such contraband in return for protection from various prison groups or gangs. I can vividly recall observing older inmates remaining on the cell block during periods when the vast majority of other inmates had gone to recreation activities off the tier inasmuch as this was the only time the older inmates felt safe enough to utilize the gang showers.

I specifically recall an older inmate once sharing a perspective of his long period of confinement at the New Jersey State Prison at Trenton. The inmate in question told me that not long after first arriving at

the prison he observed a rookie correction officer begin his career, and then some 25-plus years later observed this same correction officer retire. Within a day or two of the latter officer's retirement the inmate in question observed another rookie officer begin his career, and the inmate realized that he will still be confined, if alive, when this second rookie officer exercises his retirement benefit.

In conclusion, I genuinely believe that execution is not sound or proper public policy. In my opinion the irreversible reality of execution must be a major consideration. The ever-advancing and rapidly improving capabilities of forensic science and its potential to provide heretofore nonexistent evidential resources must be given deliberation. I am of the firm belief that the decades-long appeal process is an unnecessary and cruel protraction of grief and suffering for victims' families and loved ones. I am also of the opinion that, if use of the death penalty is ended, the replacement punishment should be life

without parole. This would in my judgment better serve the interests of society, including the victims' families.

From the standpoint of public safety, I believe that execution is not a significant deterrent. To the contrary, my experience suggests that life without parole is possibly a more meaningful deterrent. Unfortunately, many of today's very hostile and angry youth do not expect to live long, and execution is merely one of any number of violent options associated with their perceived demise. I genuinely believe that if life without parole means life without parole, no ifs, ands or buts, and that every day of the sentence will be served in a secure penal environment, some deterrent benefit may be reasonably anticipated because this grim reality of a long and lonely life behind bars may frighten these young thugs more than an early death.

I ask that you carefully review and consider what I have had to say about both the general realities of

life in a maximum security prison and the specific realities of growing old and eventually dying in secure confinement. Upon such reflection, I am confident that you will share my conviction that true life without parole provides a real and powerful measure of retribution.

I trust my observations have been of value to you, and I welcome an opportunity to respond to your specific questions.

Gary J. Hilton

Gary J. Hilton's distinguished career in Corrections has spanned over 37 years. He is a proven leader, with strong operations and executive management skills. Mr. Hilton has served as an expert witness, trainer, lecturer and consultant to a wide range of public, judicial and private entities both nationally and abroad. He has also provided technical consultation and training services on behalf of the National Institute of Corrections.

In April of 1998, Mr. Hilton concluded a 33 year career with the New Jersey Department of Corrections having served as Warden of the State's maximum security prison, Superintendent of the Adult prison for women and for over 17 years as Assistant Commissioner for Operations, Chief of Staff and Acting Commissioner.

Prior to his retirement from public service in July 2002, Mr. Hilton was Director of Corrections and Youth Services for Monmouth County, New Jersey. During his tenure, he spearheaded the successful national accreditation of the central facility. Mr. Hilton is a charter member of the New Jersey Chapter of the American Correctional Association and currently serves as the organization's First Vice President. He has overseen more than \$850 million in facility construction and renovations. He has also been the recipient of numerous awards and commendations from various professional and governmental organizations.

Currently, Mr. Hilton is founder and president of Paige Plus LLC, a comprehensive correctional service and consulting company.